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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,932	12/09/2003	Hul Chun Hsu	MR2349-974	2437
4586	7590	09/02/2005	EXAMINER	
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			DUONG, THO V	
			ART UNIT	PAPER NUMBER
			3743	
DATE MAILED: 09/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/729,932

Applicant(s)

HSU, HUL CHUN

Examiner

Tho v. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-6 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Claims 2,4-6 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/17/2005.

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,7 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yumiko et al. (JP 406106269A). Yumiko discloses (figures 1-10) a circular tubular heat pipe having a sealed structure closing a distal opening thereof, the seal structure comprises a concave wall portion formed on a region of the heat pipe adjacent to the distal opening; an arc-pressed recess portion formed on the concave wall portion to have a overlapping wall (figure 4); a curled volume reduced portion (figure 3) formed on the pressed recess portion; and a sealed welding portion formed on the volume reduced portion and the pressed recess portion (supersonic wave welding). Regarding claims 9-10, the methods of forming the device “is spot welded” and “is

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ultrasonically welded” are not germane to the issue of patentability of the device itself. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In this instant case, the product-by-process claim is the same as or obvious from the heat pipe of Yumiko, the claim is unpatentable even though the prior product was made by a different welding.

Claims 1,3,7 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tadao et al. (JP 361213599A). Tadao discloses (figures 5-6) a circular tubular heat pipe having a sealed structure closing a distal opening thereof, the seal structure comprises a concave wall portion formed on a region of the heat pipe adjacent to the distal opening; the concave wall has an arc-pressed recess portion overlapping wall (a second wall collapsed on the concave wall); a curled volume reduced portion (figure 6) formed on the pressed recess portion (overlapped wall region); and a sealed welding portion formed on the volume reduced portion, which is part of the pressed recess portion. Regarding claims 9-10, the methods of forming the device “is spot welded” and “is ultrasonically welded” are not germane to the issue of patentability of the device itself. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the

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prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In this instant case, the product-by-process claim is the same as or obvious from the heat pipe of Yumiko, the claim is unpatentable even though the prior product was made by a different welding.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Genshiro (JP 363061890A) discloses a heat pipe is sealed by welding.

Furukawa Electric Co LTD (JP 06109384A) discloses a seal structure heat pipe seal portion pipe press weld pipe wall.

Takeshi (JP 410290091A) discloses working method for sealing part in heat pipe.

Masataka et al. (JP 362131200A) discloses a method of sealing heat pipe end.

Ishida et al. (US 6,508,302) discloses a heat pipe and method for process the heat pipe.

Ikeda et al. (US 2001/0022219A1) discloses a plate type heat pipe and mounting structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tho v. Duong whose telephone number is 571-272-4793. The examiner can normally be reached on M-F (first Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennet can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tho v Duong  
Primary Examiner  
Art Unit 3743



TD  
August 24, 2005